

REPRESENTATIVE FOR PETITIONER:  
Sandra K Bickel, ATTORNEY AT LAW

REPRESENTATIVES FOR RESPONDENT:  
Steve Carter, ATTORNEY GENERAL OF INDIANA  
Joel Schiff, DEPUTY ATTORNEY GENERAL

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

MERIDIAN TOWERS EAST & WEST	)	Petition Nos.:	49-801-98-1-4-00007R
A LIMITED LIABILITY COMPANY,	)		49-801-98-1-4-00010R
	)		
Petitioner,	)	County:	Marion
	)		
v.	)	Township:	Washington
	)		
WASHINGTON TOWNSHIP ASSESSOR,	)	Parcel Nos.:	8043278
MARION COUNTY,	)		8014618
	)		
Respondent.	)	Assessment Year:	1998
	)		

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On Remand from the Indiana Tax Court  
Cause No. 49T10-0206-TA-58

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**REFERAL TO WASHINGTON TOWNSHIP ASSESSOR**

The Board having reviewed the decision of the Tax Court in the above matter dated December 23, 2003 (attached and incorporated by reference), and pursuant to Ind. Code § 6-1.1-15-8, refers this matter to the Washington Township Assessor to make another assessment consistent with the Tax Court decision, for the reasons contained herein.

## **Facts and Procedural History**

1. Meridian Towers East & West, a Limited Liability Company (Meridian) owns two (2) apartment buildings, known as Meridian Towers Apartments, in Indianapolis, Indiana. For the 1998 assessment year, the Washington Township Assessor (Assessor) applied a 10% obsolescence depreciation adjustment to each of Meridian's buildings. Meridian appealed its assessment to the Marion County Property Tax Assessment Board of Appeals (PTABOA). The PTABOA denied Meridian's appeals.
2. Meridian then appealed the PTABOA decision to the Indiana Board of Tax Review (Board), alleging that the buildings were entitled to additional obsolescence depreciation. On April 18, 2002, following an administrative hearing, the Board issued a final determination denying Meridian's requested relief.
3. On June 3, 2002, Meridian initiated an original tax appeal. The Tax Court heard oral arguments on September 3, 2003, and issued its decision on December 23, 2003. The sole issue considered by the Tax Court was whether Meridian was entitled to additional obsolescence depreciation.

## **Discussion of Remanded Issue**

4. The Board determined in its final determination that Meridian's calculations were severely flawed. The Board determined that the capitalization rate used in the appraisal was not arrived at using a generally recognized method. However, the Tax Court determined that the Board's rejection of this evidence was erroneous.
5. The Tax Court held that Meridian made a prima facie case by introducing an appraisal quantifying obsolescence in accordance with generally recognized appraisal principles. *Meridian Towers v. Washington Township Assessor*, 49T10-0206-TA-58, slip op. at 6 (Ind. Tax Ct. Dec. 23, 2003). Thus, "it was incumbent on the Assessor to rebut

Meridian's prima facie case." *Id.* at 8. The Court found that the Assessor "fail[ed] to impeach or rebut Meridian's evidence quantifying obsolescence depreciation at 74%. Consequently, the Assessor failed to rebut Meridian's prima facie case." *Id.*

6. The Tax Court further stated: "the Indiana Board exceeded its statutory authority by attempting to make the Assessor's case for him." *Id.* at 9. As a result, the Tax Court REVERSED the final determination of the Board and REMANDED the case to the Board with orders to instruct the local assessing officials to award Meridian's improvements with a 74% obsolescence adjustment.

Therefore, pursuant to Ind. Code § 6-1.1-15-8, the Board refers this matter to the Washington Township Assessor and instructs the Assessor to make another assessment consistent with the Tax Court decision, this \_\_\_ day of \_\_\_\_\_, 2004.

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Commissioner, Indiana Board of Tax Review

### IMPORTANT NOTICE

- APPEAL RIGHTS ON REMANDED CASE -

You may petition for judicial review of this final determination of corrected assessment pursuant to the provisions of Indiana Code § 6-1.1-15-9. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.